

**COMMISSION MEETING****1:30 P.M.****JUNE 3, 2020**

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, June 3, 2020, in the City Commission Meeting Room with Mayor Giefer presiding and Commissioners Brinkman, Gilligan and Smith present. Commissioner Geitz was present via phone. Also present were City Manager McAnarney, Assistant City Manager Massey and City Clerk Sull and City Attorney Montgomery.

**Consent Agenda**

Commissioner Gilligan requested item c, Consider Change Order No. 2 for the Downtown Sanitary Sewer System Improvements Project NO. SS1803, be removed from the Consent Agenda.

It was moved by Commissioner Gilligan, seconded by Commissioner Geitz that the remaining balance of the Consent Agenda listed below be ratified as a whole:

- a. Consider minutes of the Regular Meeting held on April 15, 2020.
- b. Consider ratification of Payroll Ordinance for the period ending on April, 2020.

The vote follows: Commissioner Gilligan, aye; Commissioner Geitz, aye; Commissioner Brinkman, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

**CONSENT AGENDA  
(Item c.)**

- c. Consider Set Bid Time and Date for the Industrial Park III Resurfacing Project NO. PV2004.

Jim Ubert, City Engineer, stated he would like to delay approving this item until after the Commission discusses Item 5 of the agenda. Item 5: Consider Approval of an Agreement with KDOT for Partial Funding of Street Resurfacing Project No. PV2004 to the City of Emporia, KS. He stated the item needs to be approved before item c can be put out for bid. He was recommending the Commission come back to this item after discussion of Item 5.

Commissioner Smith made a motion to return to Item c after discussion of Item 5 of the Agenda. Commissioner Brinkman seconded the motion. The

vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION  
(Public Comment)**

This is the time for the public to make comments. No comments were made at this time.

Lisa Keith, Zoo Director, and representative of EFOZ, were in attendance to accept a proclamation designating the month of June, 2020 as "Zoo Month" in Emporia. They stated the Association of Zoological Parks and Aquariums of North America serve the needs of both humans and wildlife by bringing them together in a unique setting. They stated they help build awareness, understanding, concern and sense of stewardship for wildlife and the environment. They urged all citizens to visit the David Traylor Zoo of Emporia to experience firsthand the wonders of nature and our environment offered by the Zoo.

Mayor Giefer then presented the proclamation.

Renee Hively, Lyon County Public Health Officer and representative, were in attendance to provide updated information of COVID-19 in the Emporia Area as requested by the Commission.

**SANITATION  
(Consider Extension of the Landfill Transportation Agreement)  
(Consider Addendum to Current Agreement for Recycling to 12-31-2020)  
(N. R. Hamm Quarry, Inc.)**

Keith Senn, Solid Waste Manager, was recognized and addressed the Governing Body. He stated this would be the third modification and addendum to the original agreement to transport and dispose of trash and the transport and processing of recycling from the Transfer Station. This contract will have an effective date of January 1, 2021 through December 31, 2026. Further basic modifications include: Termination by City/County

by notice given in writing six months in advance of May 1, 2025; Termination by Contractor by notice given in writing six month in advance of December 21, 2026; Should the City/County fail to budget sufficient funds to meet indebtedness notification shall be given by July 1 for termination of agreement on December 31; Base price effective January 1, 2021, contractor shall be compensated at the rate of \$32.97 per ton, minimum annual tonnage of 22,000 tons; payments to contractor to be made monthly. He stated the Addendum to Recyclables will be extended until December 31, 2020, while keeping the current contract in place. He stated there is significant uncertainty in the recyclables market due to global events and international policy changes that has driven up processing prices. The Recyclables Processing and Marketing Service Agreement will be reviewed before the addendum expires in December 31, 2020. He stated staff was recommending the Commission approve and sign Addendums for the extension of Agreement to transport and dispose of trash and the transport and processing of recycling from the City of Emporia/Lyon county Transfer Station.

Following further discussion, Commissioner Smith made a motion to authorizing the Mayor to sign the Addendums for the extension of Agreement to transport and dispose of trash and the transport and processing of recycling from the City of Emporia/Lyon County Transfer Station. Commissioner Gilligan seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

**ENGINEERING**  
**(2020 Street Resurfacing Project No. PV2004)**  
**(KDOT Project No. 56 KA-5730-01)**  
**(Economic Development Funds for Improvements to Industrial Park III)**

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the City of Emporia has been awarded a grant in the amount of up to \$700,000 in Economic Development Funds for roadway and drainage improvements around Industrial Park III. The project includes collector streets and storm sewer system on Weaver Street, from BNSF RR to Logan

Avenue and K-99 Highway, South Avenue, Weaver Street to East Street and Logan Avenue, Weaver Street to Warren Way. The project includes mill and overlay of asphalt surface, subgrade improvements in selected areas, curb and gutter, valley gutter and some storm sewer. He stated this agreement proves 75% KDOT matching funds to the City's 25% for all eligible expenses. Eligible expenses include actual costs, of preliminary engineering, construction, and construction engineering for the project. He stated the 75/25 ratios are \$525,000 KDOT to \$175,000 City of Emporia. He stated staff was recommending approval of the KDOT Agreement for Economic Development in an amount not to exceed \$700,000.

Commissioner Smith made a motion authorizing the Mayor to sign the agreement with KDOT for Economic Development in an amount not to exceed \$700,000. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye and Mayor Giefer, aye.

**CONSENT AGENDA  
(Item c.)**

- c. Consider Set Bid Time and Date for the Industrial Park III Resurfacing Project NO. PV2004.

Jim Ubert, City Engineer, stated following the approval of 2020 Street Resurfacing Project No. PV2004, item c. of the consent agenda is ready for approval.

Commissioner Smith made a motion to approve Item c. of the consent agenda. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**PLANNING AND DEVELOPMENT  
(MAPC Excerpts of Regular Meeting Held 5-19-20)  
(Application No. 2020-04 - Request of Dan Smoots, Fanestil Meats)  
(Annex Parcel of Land West of 4700 W. Hwy 50 into City Limits)**

The Planning Commission met in a regular session on Tuesday, May 19, 2020 with Chairman Thomas presiding. Members Bucklinger, Duncan, Garrett,

Just, Sauder and Williams were present. Members Springeman and Moore were absent. (This meeting was held via Zoom and on Facebook Live, due to the restrictions in place because of Covid19.)

APPLICATION 2020-04: A request of Dan Smoots to annex approximately five-acres of property located at to the west of 4700 W. Hwy 50 into the City of Emporia to connect to city utilities.

Staff confirmed jurisdiction over this application.

No exparte communication was declared.

**STAFF REPORT:**

**Applicants:** Dan Smoots

**Requested Action:** Annexation

**Purpose:** To bring these locations into the city

**Common Addresses:** No dedicated address

**Existing Zoning:** Restricted Commercial

**Existing Land Use:** Open land, one parcel has a residential house that will be demolished.

**Comprehensive Plan:** Industrial Flex

**Public Utilities:** Present at this location

**Analysis:** The applicant would like to annex this property in order to expand the existing building. This annexation is contiguous with the city limit line to the east.

The proposed use is consistent with the comprehensive plan. The Utility Advisory Board met May 13, 2020 and discussed the rezoning and annexation request, easements are available and in place to meet current and future needs. The Technical Review Team met May 7, 2020 and discussed the property and applications. There were no concerns noted that would prevent this request. Other departments continue to work on details of this project, related to drainage, and building plans.

**RECOMMENDATION:** Approve as a normal extension of the community.

**PUBLIC HEARING:**

The applicant was not present at the meeting.

Member Bucklinger asked if there had been any comments or contact made from surrounding property owners regarding the applications. Mr. Foster replied, his office had not received any comments, feedback or opposition for the applications. He explained the notice for the meeting was published in the paper and letters were sent out to surrounding property owners, per State Statute.

With no further discussion, the Public Hearing was opened.

The applicant had accepted the invitation to the Zoom meeting but did not show present.

Mr. Foster explained, the published legal notice and the mailed notices did contain information that this meeting would be held via Zoom and they could contact him in order to find out how to join the meeting directly, to keep in accordance with the open meeting act. Comments could also have been made directly to him via email or mail.

There were no comments in favor of the applications or against the applications.

The Public Hearing was closed.

Member Sauder moved to approve Application 2020-04, to annex approximately five-acres of property located to the west of 4700 W. Hwy 50 into the City of Emporia based upon Staff's recommendation. Member Williams seconded.

Member Just asked if it uncommon for applicants to not show up to the hearings. Member Thomas replied, it's uncommon but it has happened before. Mr. Foster did acknowledge it is recommended for the applicant or someone who represents the applicant to show up for the hearing but with the unusual circumstances there could have been problems with communication.

With no further comments, members voiced their vote. Member Bucklinger - Aye, Member Sauder - Aye, Member Thomas - Aye, Member Williams - Aye, Member Duncan - Aye, Member Just - Aye, Member Garrett - Aye. The motion was approved 7-0.

Member Bucklinger asked if owners of the surrounding properties were notified of the request for the zoning change. Mr. Foster replied that he had sent notification of the hearing and the request.

Member Sauder moved to approve Application 2020-05, to rezone an approximately five-acre portion of the parcel located to the west of 4700 W. Hwy 50 from C-2, Restricted Commercial to I-1, Light Industrial, based upon Staff's recommendation. Member Just seconded. Members voiced their vote. Member Bucklinger - Aye, Member Sauder - Aye, Member Thomas - Aye, Member Williams - Aye, Member Duncan - Aye, Member Just - Aye, Member Garrett - Aye. The motion was approved 7-0.

**MOTION:** Member Sauder made a motion to approve based on the staff recommendation. Member Williams seconded the motion.

The application was approved 7-0.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated this was a request of Dan Smoots, owner of Fanestil Meats to annex approximately 5 acres of property located at the west of 4700 W. Hwy 50 into the City of Emporia city limits to expand the Fanestil Meats processing plant to connect to city utilities. This property is contiguous with the City. The Utility Advisory Board met and easements are available and in place to meet current and future needs at this location. The Technical Review Team met and had no concerns that would prevent this request. There were no objections from neighboring property owners or the general public on this request. The proposed use is consistent with the comprehensive plan. At their May 19 2020, regular meeting, the Planning Commission voted unanimously to approve the request.

**PLANNING AND DEVELOPMENT**

**(Application No. 2020-04 - Request of Dan Smoots, Fanestil Meats)  
(Annex Parcel of Land West of 4700 W. Hwy 50 into City Limits)  
(Ordinance Number 20-12)**

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF EMPORIA, KANSAS TO INCLUDE CERTAIN DESCRIBED LAND, to which the City Clerk assigned Ordinance Number 20-12, was presented to the Governing Body for their consideration.

Commissioner Gilligan made a motion to approve Ordinance Number 20-12, an ordinance annexing a parcel of land west of 4700 W. Hwy 50 into City Limits. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

**PLANNING AND DEVELOPMENT**

**(Application No. 2020-05 - Request of Dan Smoots, Fanestil Meats)  
(Rezone of Parcel of Land West of 4700 W. Hwy 50)  
(C2, Restricted Commercial Zoning to I-1, Light Industrial)  
(Ordinance Number 20-13)**

AN ORDINANCE REZONING A PROPERTY IN THE CITY OF EMPORIA, KANSAS FROM C-2, RESTRICTED COMMERCIAL ZONING, TO I-1, LIGHT INDUSTRIAL ZONING AND AMENDING THE DISTRICT ZONING MAP TO CONFORM WITH SAID ZONING, to which the City Clerk assigned Ordinance Number 20-13, was presented to the Governing Body for their consideration.

Joe Foster, Zoning Enforcement Officer, was recognized and addressed the Governing Body. He stated the applicant is requesting a rezoning of a parcel of land west of 4700 W. Hwy 50 of the existing processing plant. The current zoning is C-2, Restricted Commercial and the applicant is requesting I-1, Light Industrial. The applicant desires to develop this area to expand a meat processing plant as authorized under Article 26-1 of the Zoning Regulations.

Commissioner Gilligan made a motion to approve Ordinance Number 20-13, an ordinance to rezone a parcel of land west of 4700 W. Hwy 50 from C-2, Restricted Commercial Zoning to I-1, Light Industrial for development of a meat processing plant. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

**WATER TREATMENT PLANT  
(Requirements for Water Fluoridation)  
(Ordinance Number 20-14)**

AN ORDINANCE AMENDING SECTION 28-27 OF THE CODE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO FLUORIDATION OF THE WATER SUPPLY AND REPEALING SAID SECTION AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE, to which the City Clerk assigned Ordinance Number 20-14, was presented to the Governing Body for their consideration.

Dean Grant, Director of Public Works, was recognized and addressed the Governing Body. He stated the current Kansas Department of Health and Environment (KDHE) requirements for fluoride injected into the drinking water at the Water Treatment Plant has been lowered and amending the current ordinance to follow the recommended limits set the Kansas Department of Health and Environment allowing the Water Treatment Plant to change the amount of fluoridation in the water being distributed from the city water treatment facility to match KDHE recommendations. He stated staff is recommending adoption of the ordinance authorizing the Water Treatment Plant to match KDHE requirements for water fluoridation.

Commissioner Smith made a motion to approve Ordinance Number 20-14, an ordinance authorizing the Water Treatment Plant to match KDHE for water

fluoridation in the water distributed from the city water treatment facility. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**WATER MAINTENANCE**  
**(Authorize City to Utilize AWWA Standard Polyethylene Tubing)**  
**(Ordinance Number 20-15)**

AN ORDINANCE AMENDING SECTION 28-23 OF THE CODE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO SERVICE PIPES AND REPEALING SAID SECTION AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE, to which the City Clerk assigned Ordinance Number 20-15, was presented to the Governing Body for their consideration.

Dean Grant, Director of Public Works, was recognized and addressed the Governing Body. He stated this ordinance would update the Service Pipes section of ordinance that applies to the portion of line from the city's water main to the city's side of the water meter. This change would allow for the use of another type of material for service lines where new paving is ordered. He stated staff is recommending utilizing AWWA Standard Polyethylene tubing as other material allowed for water service pipes.

Commissioner Smith made a motion to approve Ordinance Number 20-15, an ordinance amending Section 28-33 authorizing the city to utilize AWWA Standard polyethylene tubing. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION**  
**(United States Department of Agriculture (USDA)**  
**(Rural Business Development Grant)**

City Manager McAnarney stated Emporia Main Street has worked for several months identifying potential funding sources to equip the Fab Lab at 727 Commercial Street. Emporia Main Street and USDA have worked together on a grant from the USDA Rural Business-Cooperative Service (RBS)

program and will award Emporia Main Street a grant in the amount of \$83,200.00. Emporia Main Street will provide the local matching funds in the amount of \$30,000.00. He stated the City of Emporia will serve as a conduit for the grant and will be responsible for the successful administration of the grant. City staff has been working with a representative from the USDA on this project and the official grant start date is April 24, 2020. He stated staff was recommending accepting the grant from USDA in the amount of \$83,200.00 and authorize the City Manager to sign the appropriate documents.

Commissioner Gilligan made a motion to accept the grant from the United States Department of Agriculture in the amount of \$83,200.00 and authorize the City Manager to sign all appropriate documents. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

**CITY COMMISSION  
(City Manager's Report)**

This is a verbal report that announces upcoming events, recognizes employees for outstanding contribution and provides the public information that may be of a general interest. The following information was presented at the meeting:

At the time this Agenda was prepared, the following items were in the works:

**Tentative Agenda for June 10th Study Session**

Discuss Becker Creek.

Rural Water District #2.

Discuss Request for a Public Hearing to Appeal the SHPO at 713  
Commercial Street.

Discuss Vacation of Road K.

Discuss Contract with Lifetime.

Discuss Contract with Emporia Animal Shelter.

Review CIP

It was the consensus of the Commission to suggest the reopening of all playground equipment, shelter houses, picnic areas and available restrooms as soon as possible.

**EXECUTIVE SESSION**

Commissioner Gilligan made a motion to adjourn into Executive Session to discuss proprietary information of a private business considering potential future development in Emporia, Kansas, and to invite Jim Witt, Special Project Manager, from 2:25 p.m. to 2:40 p.m., in the City Commission Meeting Room. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session at 2:40 p.m., this same date, in the City Commission Meeting Room, Mayor Giefer stated they had discussed proprietary information of a private business considering potential future development in Emporia, Kansas, and no action was taken.

Commissioner Smith then made a motion to adjourn. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

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Danny Giefer, Mayor

ATTEST:

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Kerry Sull, City Clerk